

EXHIBIT 9

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

ePLUS, INC.,)
)
)
) Civil Action No. 3:09cv620
)
Plaintiff,)
)
)
v.)
)
LAWSON SOFTWARE, INC.)
)
)
Defendant.)

**LAWSON SOFTWARE, INC.'S IDENTIFICATION OF CLAIM TERMS REQUIRING
CONSTRUCTION**

Pursuant to Section V, Subsection H, Paragraph 3 of the Pretrial Schedule A of the Scheduling Order in this matter (Doc. No. 121) entered on November 18, 2009, Lawson Software, Inc., by counsel, hereby provides its statement of the interpretation it proposes for each claim term in dispute.

1. **Catalog / Product Catalog:** “A collection of text and images organized and published by a vendor, representing products sold by that vendor.”
2. **Converting data related to a selected matching item . . . to an item and a different source:** “Substituting a catalog entry related to a product with a catalog entry describing the product from a different source by using matching codes in a cross-reference table for sourcing and pricing.”
3. **Subset:** “Less than all of a set of selectable items”
4. **Matching Items:** “The results of a search of items matching a user-entered search criteria (i.e. “Hit List”).”
5. **Selected Matching Items:** “One or more items selected by a user in the search program from the list of “matching items” for inclusion in an order list.”
6. **Searching for matching items among the [selected product catalogs / data relating to**

the items]: “Searching selected product catalogs to locate items in response to user-entered search criteria.”

7. **Order List:** “A list of items derived from a list of selected matching items.”
8. **Protocol:** “A procedure.”
9. **Cross-Reference Table:** “A table including reference or identification codes used to link vendor items by catalog number between two or more different vendors determined by a Distributor to be equivalent.”
10. **Electronic Sourcing System:** If found limiting, “A system for determining what inventory will be used to fulfill requests for items.”

Additionally, below are provided proposed constructions for terms to be construed under 35 U.S.C. § 112 ¶ 6:

1. **Means for selecting the product catalogs to search:**

Function: “selecting two or more product catalogs to search”

Corresponding Structure: Two means for selecting two or more product catalogs are disclosed:

1. Software initiated from catalog search program (50 or 250) running on local computer (20 or 220) that consists of the following steps:
 - a. selecting two or more product catalogs from a list of available catalogs displayed to a user ('683 col. 9:52-67); and
2. Software initiated from requisition/purchasing system (40 or 240) running on local computer (20 or 220) that consists of the following steps:
 - a. entering vendor identification information into requisition/purchasing system (10:8-11); and
 - b. communicating vendor identification from requisition/purchasing system to catalog search program running on same local computer via the DDE protocol of interface (60) (10:8-20).

2. **Means for searching for matching items among the selected product catalogs:**

Function: “searching for matching items among the selected two or more product catalogs”

Corresponding Structure: Two means are disclosed:

1. Software initiated from requisition/purchasing system (40 or 240) running on local computer (20 or 220) that consists of the following steps:
 - a. entering certain search criteria (e.g., catalog number, part number, or partial text) relating to item(s) to be searched into requisition/purchasing system (7:48-55; 7:61-8:2; 8:22-26);
 - b. searching local RIMS databases (42) based on search criteria, and if found, search is complete (6:6-8; 7:36-38; 4:20-23);
 - c. if items are not found in RIMS databases (42), communicating the search criteria from requisition/purchasing system (40 or 240) to catalog search program (50 or 250) running on same local computer via the DDE protocol of interface (60) (8:37-9:8);
 - d. concatenating (i.e., joining together by linking so as to form a chain or series) only selected product catalogs to be searched after the user selects the catalogs to be searched (9:67-10:4);
 - e. searching the concatenated catalogs from catalog database (36 or 236) via catalog search program (50 or 250) based on the search criteria received from requisition/purchasing system (9:34-37; 10:8-20);
 - f. if more than one search criterion is received, catalog search program prioritizes search as follows: (a) part (catalog) number, (b) keyword and (c) page number, stopping at highest priority search criteria resulting in a match (6: 14-22); and
 - g. displaying via catalog search program a hit list of search results (9:39-45).
2. Software initiated from shell program (52 or 252) running on local computer (20 or 220), that consists of the following steps:
 - a. displaying a search screen on the monitor of local computer (12:4-12; Appendix VII);
 - b. receiving search criteria (e.g., catalog page number, keyword, part number) for item to be searched (9:12-14; 12:12-24);
 - c. concatenating (i.e., joining together by linking so as to form a chain or series) only the selected product catalogs to be searched after the user selects the catalogs to be searched (9:67-10:4).
 - d. searching the concatenated catalogs from catalog database (36 or 236) via catalog search program (50 or 250) running on local computer based on data received from shell program (52) (9:34-37; 10:8-20);
 - e. if more than one search criterion is received, catalog search program prioritizes search as follows: (a) part (catalog) number, (b) keyword, and (c) page number, stopping at highest priority search criteria resulting in a match (6:14-22); and
 - f. displaying via catalog search program a hit list (47) of search results (9:39-45; 10:2-4; 12:27-29, Appendix III).
3. **Means for building a requisition using data relating to selected matching items and their associated source(s):**

Function: "building a requisition using data relating to selected matching items and their associated source(s)"

Corresponding Structure: A software means initiated from requisition/purchasing system (40 or 240) running on local computer (20 or 220) that consists of the following steps:

- a. entering certain data (e.g., account number, requisition number) in requisition/purchasing system (40 or 240) to create requisition tables stored in requisition database (42A) (6:44-65; 7:20-28);
- b. initiating a search for matching item(s) in catalog database (36 or 236) from either requisition/purchasing system (40 or 240) or catalog search program (50 or 250) running on local computer (20 or 220) via two search means described above (8:15-32);
- c. displaying via catalog search program a hit list (47) of search results (9:39-45; 12:27-29; Appendix III);
- d. selecting one or more items to be requisitioned (10:21-24; 11:30-38);
- e. generating an order list (48) in shell (52 or 252) and catalog search program (50 or 250) containing data relating to selected items (e.g., vendor name, product description, list price) (11:20-38; 11:62-66);
- f. displaying data relating to selected items in order list (48) (11:38-43; 12:38-40; Appendix VI);
- g. transmitting data from order list (48) to requisition/purchasing system running on same local computer (20 or 220) via the DDE protocol of interface (60) (11:50-54; 12:48-53; 13:1-21); and
- h. updating requisition tables in requisition database (42A) with data received from order list (48) via interface (60) (12:60-67).

4. Means for processing the requisition to generate one or more purchase orders for the selected matching items:

Function: "processing the requisition to generate one or more purchase orders for the selected matching items"

Corresponding Structure: None.

5. Means for determining whether a selected matching item is available in inventory:

Function: "determining whether a selected matching item is available in inventory"

Corresponding Structure: Two means are disclosed:

1. A software means for local inventory initiated from requisition/purchasing system (40 or 240) running on local computer (20 or 220) that consists of the following steps:
 - a. maintaining a local inventory database (42B) on local computer (20 or 220) (14:16-20);
 - b. initiating via requisition/purchasing system (40 or 240) searches of local inventory database to determine availability of selected matching items in local

- c. inventory (14:12-16); and
 - c. displaying via requisition/purchasing system (40 or 240) the availability and quantity of inventory for the selected matching items in local inventory (14:26-32).
2. A software means for remote inventory initiated from requisition/purchasing system (40 or 240) running on local computer (20 or 220) that consists of the following steps:
- a. maintaining a remote inventory database (11) on host computer (10) (14:21-25);
 - b. initiating via requisition/purchasing system (40 or 240) searches of remote inventory database to determine availability of selected matching items in remote inventory (14:12-16); and
 - c. displaying via requisition/purchasing system (40 or 240) the availability and quantity of inventory for the selected matching items in local inventory (14:26-32).

6. Means for converting data relating to a selected matching item and an associated source to data relating to an item and a different source:

Function: "converting data relating to a selected matching item and an associated source to data relating to an item and a different source"

Corresponding Structure: None.

7. Means for searching for matching items in the database:

Function: "searching for matching items in the database"

Corresponding Structure: Two means are disclosed:

1. Software initiated from requisition/purchasing system (40 or 240) running on local computer (20 or 220) that consists of the following steps:
- a. entering certain search criteria (e.g., catalog number, part number, or partial text) relating to item(s) to be searched into requisition/purchasing system (7:48-55; 7:61-8:2; 8:22-26);
 - b. concatenating (i.e., joining together by linking so as to form a chain or series) only selected product catalogs to be searched after the user selects the catalogs to be searched (9:67-10:4).
 - c. searching local RIMS databases (42) based on search criteria, and if found, search is complete (6:6-8; 7:36-38; 4:20-23);
 - d. if items are not found in RIMS databases (42), communicating the search criteria from requisition/purchasing system (40 or 240) to catalog search program (50 or 250) running on same local computer via the DDE protocol of interface (60) (8:37-9:8);

- e. searching the concatenated catalogs from catalog database (36 or 236) via catalog search program (50 or 250) based on the search criteria received from requisition/purchasing system (9:34-37; 10:8-20);
 - f. if more than one search criterion is received, catalog search program prioritizes search as follows: (a) part (catalog) number, (b) keyword and (c) page number, stopping at highest priority search criteria resulting in a match (6:14-22); and
 - g. displaying via catalog search program a hit list of search results (9:39-45).
2. Software initiated from shell program (52 or 252) running on local computer (20 or 220), that consists of the following steps:
- a. displaying a search screen on the monitor of local computer (12:4-12; Appendix VII);
 - b. receiving search criteria (e.g., catalog page number, keyword, part number) for item to be searched (9:12-14; 12:12-24);
 - c. concatenating (i.e., joining together by linking so as to form a chain or series) only the selected product catalogs to be searched after the user selects the catalogs to be searched (9:67-10:4).
 - d. searching the concatenated catalogs from catalog database (36 or 236) via catalog search program (50 or 250) running on local computer based on data received from shell program (52) (9:34-37; 10:8-20);
 - e. if more than one search criterion is received, catalog search program prioritizes search as follows: (a) part (catalog) number, (b) keyword, and (c) page number, stopping at highest priority search criteria resulting in a match (6:14-22); and
 - f. displaying via catalog search program a hit list (47) of search results (9:39-45; 10:2-4; 12:27-29, Appendix III).

8. **Means for entering product information that at least partially describes at least one desired item:**

Function: "entering product information that at least partially describes at least one desired item"

Corresponding Structure: Two means are disclosed:

1. A software means initiated from requisition/purchasing system (40 or 240) running on local computer (20 or 220) that consists of the following step:
 - a. entering in requisition/purchasing system (40 or 240) certain fields of information (e.g., catalog number, part number, or partial text) that partially describe an item ('683 Cols. 7:48-55, 7:61-8:2; 8:22-26).
2. A software means initiated from shell program (52 or 252) running on local computer (20 or 220) that consists of the following steps:
 - a. displaying a search screen on the monitor of local computer (12:4-12; Appendix VII); and
 - b. entering search criteria (e.g., catalog page number, keyword, part number) for item to be searched (9:12-14; 12:12-24).

9. **Means for searching for matching items that match the entered product information in the selected portions of the database:**

Function: "searching for matching items that match the entered product information in the selected portions of the database"

Corresponding Structure: Two means are disclosed:

1. Software initiated from requisition/purchasing system (40 or 240) running on local computer (20 or 220) that consists of the following steps:
 - a. entering certain search criteria (e.g., catalog number, part number, or partial text) relating to item(s) to be searched into requisition/purchasing system (7:48-55; 7:61-8:2; 8:22-26);
 - b. searching local RIMS databases (42) based on search criteria, and if found, search is complete (6:6-8; 7:36-38; 4:20-23);
 - c. if items are not found in RIMS databases (42), communicating the search criteria from requisition/purchasing system (40 or 240) to catalog search program (50 or 250) running on same local computer via the DDE protocol of interface (60) (8:37-9:8);
 - d. concatenating (i.e., joining together by linking so as to form a chain or series) only selected product catalogs to be searched after the user selects the catalogs to be searched (9:67-10:4);
 - e. searching the concatenated catalogs from catalog database (36 or 236) via catalog search program (50 or 250) based on the search criteria received from requisition/purchasing system (9:34-37; 10:8-20);
 - f. if more than one search criterion is received, catalog search program prioritizes search as follows: (a) part (catalog) number, (b) keyword and (c) page number, stopping at highest priority search criteria resulting in a match (6: 14-22); and
 - g. displaying via catalog search program a hit list of search results (9:39-45).
2. Software initiated from shell program (52 or 252) running on local computer (20 or 220), that consists of the following steps:
 - a. displaying a search screen on the monitor of local computer (12:4-12; Appendix VII);
 - b. receiving search criteria (e.g., catalog page number, keyword, part number) for item to be searched (9:12-14; 12:12-24);
 - c. concatenating (i.e., joining together by linking so as to form a chain or series) only the selected product catalogs to be searched after the user selects the catalogs to be searched (9:67-10:4);
 - d. searching the concatenated catalogs from catalog database (36 or 236) via catalog search program (50 or 250) running on local computer based on data received from shell program (52) (9:34-37; 10:8-20);

- e. if more than one search criterion is received, catalog search program prioritizes search as follows: (a) part (catalog) number, (b) keyword, and (c) page number, stopping at highest priority search criteria resulting in a match (6:14-22); and
- f. displaying via catalog search program a hit list (47) of search results (9:39-45; 10:2-4; 12:27-29, Appendix III).

10. Means for generating an order list that includes at least one matching item selected by said means for searching:

Function: "generating an order list that includes at least one matching item selected by said means for searching"

Corresponding Structure: A software means that utilizes catalog search program (50 or 250) and shell program (52 or 252) and consists of the following steps:

- a. displaying via catalog search program (50 or 250) a hit list (47) of search results (9:39-45; 12:27-29; Appendix III);
- b. selecting one or more items to be requisitioned (10:21-24, 11:30-38); and
- c. generating an order list (48) in shell (52 or 252) containing data relating to selected items (e.g., vendor name, product description, list price) (11:20-38; 11:62-66).

11. Means for building a requisition that uses data obtained from said database relating to selected matching items on said order list:

Function: "building a requisition that uses data obtained from said database relating to selected matching items on said order list"

Corresponding Structure: A software means initiated from requisition/purchasing system (40 or 240) running on local computer (20 or 220) that consists of the following steps:

- a. entering certain data (e.g., account number, requisition number) in requisition/purchasing system (40 or 240) to create requisition tables stored in requisition database (42A) (6:44-65; 7:20-28);
- b. initiating search for matching item(s) in catalog database (36 or 236) from either requisition/purchasing system (40 or 240) or catalog search program (50 or 250) running on local computer (20 or 220) via two search means described above (8:15-32);
- c. displaying via catalog search program a hit list (47) of search results (9:39-45; 12:27-29; Appendix III)
- d. selecting one or more items to be requisitioned (10:21-24; 11:30-38);
- e. generating an order list (48) in shell (52 or 252) and catalog search program (50 or 250) containing data relating to selected items (e.g., vendor name, product description, list price) (11:20-38; 11:62-66);
- f. displaying data relating to selected items in order list (48) (11:38-43; 12:38-40; Appendix VI);

- g. transmitting data from order list (48) to requisition/purchasing system running on same local computer (20 or 220) via DDE protocol of interface (60) (11:50-54; 12:48-53; 13:1-21); and
- h. updating requisition tables in requisition database (42A) with data received from order list (48) via interface (60) (12:60-67).

12. Means for processing said requisition to generate purchase orders for said selected matching items:

Function: "processing a requisition to generate purchase orders for the selected matching items."

Corresponding Structure: None.

13. A multiple purchase order generation module, said purchase order generation module creating multiple purchase orders from a single requisition created with said user-generated criteria and said search-module criteria:

Function: "creating multiple purchase orders from a single requisition created with said user-generated criteria and said search-module criteria"

Corresponding Structure: None.

14. Converting means for converting data relating to said item from said first catalog to data relating to said item from said second catalog:

Function: "converting data relating to said item from said first catalog to data relating to said item from said second catalog"

Corresponding Structure: None.

As referenced in the phone conference of December 22, 2009 between the parties,

Lawson's term "means for searching for matching items among the data relating to the items" as listed in its Identification of Claim Terms Requiring Construction (served December 15, 2009) was a typographical error, and is intended to refer to the "means for searching for matching items in the database", term # 7 in the means-plus-function constructions above.

Lawson believes that term #14 above, "converting means. . ." should be construed under

35 U.S.C. § 112 ¶ 6. As noted in Lawson's Identification of Claim Terms Requiring Construction, Lawson reserved the right to construe terms differently from ePlus, if ePlus proposed some different definition of any term from that provided in ePlus, Inc. v. SAP America, Inc. (Civil Action No. 3:05CV281-JRS);. Term #14 in the means-plus-function constructions above was construed as a means-plus-function phrase in ePlus, Inc. v. SAP America, Inc.; to the extent that ePlus is now construing this term as not falling within the purview of 35 U.S.C. § 112 ¶ 6, Lawson believes construction of that term is required.

Lawson reserves the right to revise the above definitions or provide alternative constructions to the above upon review of ePlus's constructions, for example where ePlus is able to locate some structure within the patents-in-suit corresponding to the claims to be construed under 35 U.S.C. § 112 ¶ 6. Additionally, Lawson is not prejudiced by any of the above-provided constructions from asserting that any claim is invalid under 35 U.S.C. § 101 or § 112.

Dated: December 28, 2009

LAWSON SOFTWARE, INC.

By: 

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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

ePLUS, INC.,)
)
)
) Civil Action No. 3:09-cv-620
Plaintiff,)
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v.)
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LAWSON SOFTWARE, INC.)
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Defendant.)

CERTIFICATE OF SERVICE

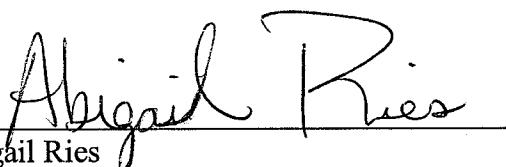
I hereby certify that on December 28, 2009, I caused the following documents:

1. Lawson Software, Inc.'s Identification of Claim Terms Requiring Construction; and
2. Certificate of Service

to be served on the following individuals via electronic mail:

Goodwin Proctor ePlus team at ePlusGoodwinService@goodwinprocter.com
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Henry Willett at hwillett@cblaw.com
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Dated: December 28, 2009



Abigail Ries